

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ESTATE OF MARK MONTGOMERY,
ET AL.,

NO. 3:16-cv-05125-RJB

Plaintiffs,

ORDER ON MOTION TO STAY AND MOTION TO DISMISS

V.

SOLOY, LLC, a Washington limited liability company.

Defendant.

EAGLEMED, L.L.C. and STARR
INDEMNITY AND LIABILITY
COMPANY.

NO. 16-cv-5136 RJB

Plaintiffs.

V.

SOLOY, LLC, a Washington limited liability company.

Defendant

This matter comes before the Court on the Plaintiffs' Joint Motion to Stay Proceedings.

Pending Outcome of Pending Appeal before the Oklahoma Court of Civil Appeals (Dkt. 21)

and Defendant Seley, LLC's ("Seley") Motion to Dismiss (Dkt. 16). The Court has

considered the motions and the remaining record

These consolidated cases arise from a helicopter crash in Oklahoma City, Oklahoma on February 22, 2013. Dkt. 1. Defendant Soloy, a Washington company, is alleged to have designed, tested, and manufactured the helicopter's engine "conversion package" that is asserted to have been defective and contributed to, or caused, the crash. *Id.*

Plaintiffs move for a stay pending the outcome of a parallel Oklahoma state court action which is currently pending before the Oklahoma Court of Civil Appeals (Appeal number 115047). Dkt. 21. Defendant Soloy moves for dismissal of the case based on *forum non conveniens*. Dkt. 16. For the reasons provided, the motion to stay (Dkt. 21) should be granted and the motion to dismiss (Dkt. 16) should be stricken, to be renoted, if appropriate.

FACTS

In 2015, Plaintiffs filed a case in Oklahoma state court for relief based on the crash. *Montgomery v. Airbus Helicopters, Inc.*, District Court of Oklahoma County, State of Oklahoma case number CJ-2015-908. Prior to the filing of the Oklahoma action, other parties (and their estates) involved in the crash filed suit in Texas on August 16, 2013. *Denning, et al. v. Airbus Helicopters, Inc., et al.*, Tarrant County, Texas, 141st District, case number 141-267463-13; *See* Dkt. 17-3. The Plaintiffs here joined the Texas litigation, but eventually voluntarily dismissed their case and re-filed in Oklahoma. *See* Dkts. 17-3, 17-37, and 17-38.

Soloy moved the Oklahoma trial court for dismissal based on *forum non conveniens*, which was denied. Dkt. 17-10. The Oklahoma trial court then found that it did not have personal jurisdiction over Soloy and so, on that basis, dismissed the claims against it. *Id.* Plaintiffs appealed the decision to dismiss Soloy to the Oklahoma Court of Civil Appeals (Appeal number 115047) on June 17, 2015. Dkt. 17-11. Plaintiffs filed this case to prevent their claims from being barred by the statute of limitations. Dkt. 1. Plaintiffs now move for a

1 stay of this matter pending the Oklahoma Court of Civil Appeals' decision on whether the
 2 Oklahoma courts have personal jurisdiction over Soloy. Dkt. 21.

3 In Soloy's pending motion to dismiss based on *forum non conveniens*, it argues that
 4 this is an inconvenient forum "because similar lawsuits are ongoing in Texas and Oklahoma."
 5 Dkt. 16, at 4 and 35. Soloy maintains that Texas is a more convenient forum for this case, and
 6 notes that the Texas litigation has been ongoing for several months. *Id.*

DISCUSSION

8 A district court has broad discretion to stay an action. *See Landis v. North American*
 9 *Co.*, 299 U.S. 248, 254 (1936). "Where it is proposed that a pending proceeding be stayed,
 10 the competing interests which will be affected by the granting or refusal to grant a stay must
 11 be weighed." *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). Courts consider the
 12 "possible damage which may result from the granting of a stay, the hardship or inequity
 13 which a party may suffer in being required to go forward, and the orderly course of justice
 14 measured in terms of the simplifying or complicating of issues, proof, and questions of law
 15 which could be expected to result from a stay." *Id.*

17 Considering the competing interest here, this case should be stayed. Soloy has not
 18 shown that it would be unduly damaged by the stay. Soloy favors suit in Texas, but, in any
 19 event, clearly disfavors suit in this forum as evidenced by its motion to dismiss based on
 20 *forum non conveniens*. Plaintiffs properly point out that hardships exist for all parties since
 21 extra resources would have to be expended on both sides if both cases go forward. Further,
 22 the "orderly course of justice" favors staying this case. If the Oklahoma court determines that
 23 it has jurisdiction over Soloy, decisions it has already made may simplify or impact the issues
 24 in this case. Further, the accident occurred in Oklahoma, and some of the parties live in
 25 Oklahoma, possibly making issues of proof simpler in that forum. This case should be stayed

1 pending the outcome of the decision of the Oklahoma Court of Civil Appeals (Appeal number
2 115047).

3 All pending motions should be stricken, to be renoted, if appropriate, after the stay is
4 lifted. Plaintiffs should be ordered to inform this Court within 30 days of the decision by the
5 Oklahoma Court of Civil Appeals, or in any event, should report on or before December 2,
6 2016. All other deadlines should be stricken.

7 **ORDER**

8 It is **ORDERED** that:

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- Plaintiffs' Joint Motion to Stay Proceedings Pending Outcome of Pending Appeal Before the Oklahoma Court of Civil Appeals (Dkt. 21) is **GRANTED**;
- All pending motions and deadlines are **STRICKEN WITHOUT PREJUDICE**; and
- Plaintiffs **SHALL** inform this Court within 30 days of the decision by the Oklahoma Court of Civil Appeals, or in any event, should report on the status of the pending cases on or before December 2, 2016.

17 The Clerk is directed to send uncertified copies of this Order to Defendant Barron, any
18 other party proceeding *pro se*, and all counsel of record.

19 Dated this 20th day of June, 2016.

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ROBERT J. BRYAN
United States District Judge